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UNITED STATES OF AMERICA

9 UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 VIOREL PRICOP,

15 Defendant.
16

ED CR No. 22-257-SSS

GOVERNMENT'S MOTION TO
RECONSIDER ORDER DENYING
LEAVE TO FILE OVERSIZE BRIEF

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18 Plaintiff United States of America, by and through its counsel of record, the
19 United States Attorney for the Central District of California and Assistant United States
20 Attorney John A. Balla, hereby files its Motion to Reconsider the Court's Order Denying
21 Leave to File Oversize Brief (ECF No. 50).

22 First, the government respectfully asks the Court to reconsider because the
23 government had sought defendant's position on the motion for leave before filing but
24 had not received a response before filing the motion. After filing the motion, the
25 government received an email from defense counsel indicating that defendant did not
26 oppose the motion. Given the new information that the motion was unopposed, the
27 government asks the Court to reconsider its denial of the government's motion for leave.
28

1 Second, the government wishes to clarify its reasons for seeking the requested
2 leave. This case involves six charged acts of arson, and the disputed issue here concerns
3 the admissibility of eighteen other acts of arson that the government wishes to admit at
4 trial. The relevant legal standards relating to Federal Rule of Evidence 404 are fact-
5 intensive; they require the Court to consider, among other things, the commonalities of
6 those incidents and the strength of the evidence proving that defendant committed those
7 uncharged acts. *See United States v. Vizcarra-Martinez*, 66 F.3d 1006, 1012-13 (9th Cir.
8 1995) (stating that evidence of uncharged acts are “inextricably intertwined” with
9 charged acts, and thus outside the scope of Rule 404, when (1) the charged acts and
10 uncharged acts are part of a “single criminal episode” or (2) when admitting evidence of
11 the uncharged acts is (a) “necessary . . . in order to . . . offer a coherent and
12 comprehensible story” or (b) “to explain . . . the circumstances under which particular
13 evidence was obtained [and] the events surrounding the commission of” the charged
14 acts); *United States v. Verduzco*, 373 F.3d 1022, 1027 (9th Cir. 2004) (stating that a
15 court assessing admissibility other-acts evidence within Rule 404 generally considers
16 whether “(1) the evidence tends to prove a material point; (2) the prior act is not too
17 remote in time; (3) the evidence is sufficient to support a finding that the defendant
18 committed the other act; and (4) (in cases where knowledge and intent are at issue) the
19 act is similar to the offense charged”). The government must therefore provide the
20 Court with a sufficient evidentiary background on twenty-four fires set over a two-year
21 period and the large mass of evidence accumulated to investigate those fires. More than
22 two thirds of the word count in the government’s opposition brief constitutes factual
23 background rather than argument. Further, the most critical evidence in this case comes
24 from analyses of cellular location data, which is presented and understood most easily
25 through map images. About 40 pages of the government’s opposition brief constitute
26 images rather than text.

27 The undersigned is aware that the local rules provide a 7,000-word limit on briefs
28 and that the Court’s criminal standing order provides a 10-page limit on briefs related to

1 motions in limine. The undersigned is also sensitive to the Court's busy docket and its
2 desire not to waste time reading unnecessarily long briefs. But for the reasons above,
3 exceeding those length requirements is practically necessary for the Court to properly
4 decide defendant's motion in limine.

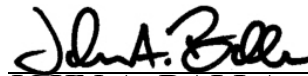
5 For these reasons, the government respectfully requests that the Court reconsider
6 its order denying the government's motion for leave (ECF No. 50).

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8 Dated: December 19, 2023

Respectfully submitted,

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